

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF APPALACHIAN CELLULAR, LLC FOR A	)
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY	)
TO CONSTRUCT AND OPERATE A CELLULAR CELL SITE ON	) CASE NO.
RT. 80, BETWEEN HAYES BRANCH OF TURKEY CREEK AND	) 98-158
GOOSE CREEK, EASTERN, FLOYD COUNTY, KENTUCKY	)

O R D E R

On September 23, 1998, Appalachian Cellular General Partnership ("Appalachian Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 9 ("RSA No. 9"). RSA No. 9 includes Elliott, Floyd, Johnson, Lawrence, Magoffin, Martin, Morgan, and Pike counties. Appalachian Cellular has requested authorization to construct a cell site in Floyd County. Appalachian Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 91-073.<sup>1</sup>

The proposed cell site consists of a 300-foot or less guyed antenna tower to be located in Floyd County, Kentucky ("the Floyd County cell site"). The coordinates for the Floyd County cell site are North Latitude 37° 30' 14" by West Longitude 82° 41' 35".

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<sup>1</sup> Case No. 91-073, The Application of Appalachian Cellular General Partnership for a Certificate of Public Convenience and Necessity to Construct and Operate Cellular Telephone Facilities to Serve RSA #9 in Kentucky.

Appalachian Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Floyd County cell site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Registered Professional Engineer has certified the plans.

Pursuant to KRS 100.324(1), the Floyd County cell site's construction is exempt from local zoning ordinances; however, Appalachian Cellular notified the Floyd County Judge/Executive of the pending construction. Appalachian Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Floyd County cell site. Both applications are pending.

Appalachian Cellular has filed notices verifying that each person who owns property within 500 feet of the Floyd County cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Appalachian Cellular's application was filed. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Appalachian Cellular should notify the Commission if it does not use this antenna tower to

provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Appalachian Cellular.

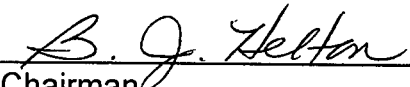
The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Appalachian Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Floyd County cell site in RSA No. 9 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

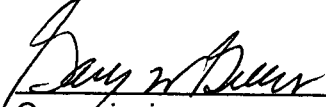
1. Appalachian Cellular is granted a Certificate of Public Convenience and Necessity to construct and operate the Floyd County cell site.
2. Appalachian Cellular shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.
3. Appalachian Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 25th day of November, 1998.

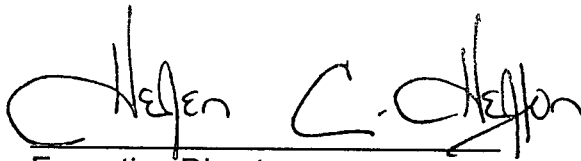
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director